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## HISTORICAL FRAGMENTS

### THE DISPUTED MICHIGAN-WISCONSIN BOUNDARY

Boundary disputes have ever constituted a fruitful source of contention between men and nations. Probably no people has more frequently engaged in them than our own, although, contrary to Old-World precedent, we commonly wage our boundary contentions verbally rather than with arms. Wisconsin, like others of the sisterhood of states, was early in its history a party to a number of boundary disputes, the fruits of victory commonly going, at least in local contemporary judgment, to her opponents. Since Wisconsin has become a state, boundary disputes have until recent years ceased. Two such have, however, arisen within the twentieth century and are still pending, one with the state of Minnesota, the other with that of Michigan. The former is in process of settlement by due governmental procedure, and accordingly no discussion of it would now be useful. The latter is at present in a state of quiescence; yet the boundary paragraphs of the constitutions of Michigan and of Wisconsin contain mutually contradictory clauses with respect to a strip of territory over which Michigan claims and Wisconsin exercises jurisdiction. Moreover, the overtures of our northern neighbor a few years since looking to a determination of the question met on our part with rebuff. Sooner or later, the issue will have to be determined; pending this, an historical résumé of the points at issue may be of some interest, especially to Wisconsin readers.

The boundary between Michigan and Wisconsin was first determined in the act that in 1836 created Wisconsin Territory. In ignorance of the real geography of the region this act described a supposititious line, under the belief that the Montreal River had its source in Lake Vieux Desert. Two years later Congress appropriated \$3,000 for the survey of the Michigan-Wisconsin boundary. The appropriation was considered insufficient and no attempt was made to run the line until 1841. Then, the matter having been transferred to the War Department, an army engineer, Lieutenant Thomas J. Cram, was detailed to undertake the survey. Cram spent

the summer of 1841 in Wisconsin's northern forests, ascertained many facts about the lakes and streams therein, and reported them to the department. Two years later Cram was again detailed to search for the true Wisconsin-Michigan boundary. He spent four months under conditions involving much hardship, in the attempt to determine the line as nearly as possible in accordance with official description. In the report which he made to the head of his department he recommended the abandonment of Lake Vieux Desert as a determining factor in the interstate boundary line.<sup>1</sup>

The determination of the line rested until 1846, when, in the enabling act providing for the admission of Wisconsin, Congress established the line "to the mouth of the Menominee river; thence up the channel of the said river to the Brulé river; thence up said last mentioned river to Lake Brulé; thence along the southern shore of Lake Brulé in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert [Vieux Desert]; thence in a direct line to the head waters of the Montreal river, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal river to the middle of Lake Superior." The constitution of Michigan, adopted in 1850, repeated the boundary article of Wisconsin's enabling act with only slight verbal changes, including the omission of Captain Cram's name. The fundamental laws of the two states were thus in accord concerning the line separating these states.

In the meanwhile, in 1847 a portion of the boundary was surveyed by William A. Burt, under the direction of Lucius Lyon.<sup>2</sup> Burt took the contract on April 27 and performed his work during the succeeding summer months. The field notes of his survey do not accompany his printed report, but Lyon stated that Burt's notes would be forwarded later, and no doubt they are yet preserved in the General Land Office at Washington. From these field notes it might be ascertained why Surveyor Burt chose the eastern branch as the "main channel of the said Montreal river." In so doing he assigned to Wisconsin 360 square miles of land that now include the towns of

<sup>1</sup> Lieutenant Cram's maps are reproduced in *Michigan Pioneer and Historical Collections*, XXXVIII, 386-87. His reports are found in *Senate Documents*, 151, Twenty-sixth Congress, 2d sess., Vol. IV; *ibid*, 170, Twenty-seventh Congress, 2d sess., Vol. III.

<sup>2</sup> Burt's report, with accompanying map, may be found in *Senate Executive Documents*, 2, Thirtieth Congress, 1st sess.

Hurley and Van Buskirk. Had he chosen the western branch, rising in the Island Lake as the Montreal's headwaters, the jurisdiction of this strip would have rested in Michigan.

No one undertook to investigate the matter until quite recent years. Then Hon. Peter White of Marquette, Michigan, believing that his state was illegally deprived of the land between the two branches of the Montreal River, had a survey thereof made at his private expense. White's surveyors ascertained, to their own and his satisfaction, that the western branch was the "main" channel of the Montreal River. Meanwhile Mr. White had interested in Michigan's claims Clarence W. Burton of Detroit, the president of the State Historical Commission. Burton discovered that one of Burt's surveyors, George H. Cannon, was still living, and arranged for the publication of an article from his pen supporting White's contention that Michigan had been wrongfully deprived of a portion of her upper peninsula.<sup>3</sup>

Shortly after this, in 1907, Michigan held a convention to prepare a new constitution for the state. Burton was chosen a member of this body, and became chairman of the committee on boundaries. That committee, without discussion upon the floor of the convention, had the boundary article of the new constitution drawn to read: "thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the westerly branch of the Montreal river to Island Lake, the head waters thereof, thence in a direct line to the center," etc. This became part of Michigan's fundamental law on February 21, 1908.

Meanwhile in 1907 two resolutions passed the Michigan legislature. The first, after reciting the mistakes in Captain "Cramm's" surveys, authorized the governor to appoint a commissioner to visit Wisconsin in order to secure a joint commission for the adjudication of the boundary. In pursuance of this resolution the governor appointed Hon. Peter White to this office. He came to Madison twice, but could not interest the state's officials in his enterprise, and was unable to secure any promise of participation in a joint commission. In June, 1908, Mr. White died, and so far as known no successor to him as boundary commissioner has ever been appointed.

<sup>3</sup> For the article see *Michigan Pioneer and Historical Collections*, XXXVIII, 163-68.

The second Michigan resolution of 1907 authorized the attorney-general to direct a survey of the state's northwest boundary, and also to institute proceedings in a court of competent jurisdiction to secure a rectification of the boundary line. Acting on this authorization the attorney-general employed Professor J. B. Davis, of the University of Michigan, to investigate the survey and prepare a brief of Michigan's claims. The result of Professor Davis' investigation has not yet been given to the world. A chronicler of Michigan wrote in 1908 that "in view of the political excitement of the presidential year no active measures [concerning the disputed territory] are likely to be taken this season." On another page the author expresses a doubt "whether the state of Michigan can ever occupy the territory justly hers." He concludes with the observation that it "is believed to be the only instance in this nation where two sovereign states are occupying a dividing line of doubtful legality, merely by common consent."<sup>4</sup>

LOUISE P. KELLOGG.

### AN EARLY WISCONSIN PLAY

In the collection of Mr. Henry Cady Sturges, of New York, there is a copy (the only one the writer has seen) of a play which, while it may not be the earliest, is certainly one of the first printed in Milwaukee. While the plot of the production is laid in New York and is largely local in interest, yet the fact that it was printed in Wisconsin, and the further fact that no other edition seems to be known, makes it fairly certain that it is the offspring of a writer who lived in Wisconsin.

The piece bears title as follows: "*The Drummer, / or / New York Clerks / and / Country Merchants. / A Local Play, / in two acts. / (2 lines of verse.). / Edited by Mrs. Partington. / Milwaukee:/ Job Press of Cary & Rounds. / Commercial Advertiser Office./ 1851./*" It has 73 + 1 pages and paper covers, the front cover bearing the same title as above.

A curious coincidence regarding the characters in the play is that the father of the present owner, Jonathan Sturges, is among them, his part being that of "Mr. Sturges, a New York Merchant,"

<sup>4</sup>*Ibid.* 167-68.